IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 09-20206

United States Courts
Southern District of Texas
FILED

MAY 2 1 2009

Michael N. Milby, Clerk of Court

NATHAN SMITH,

Plaintiff - Appellee

versus

THE ABANDONED VESSELL, ET AL

Defendants

TEXAS HISTORICAL COMMISSION

Movant-Appellant

Appeal from the United States District Court for the
Southern District of Texas, Houston

Pursuant to appellant's motion this appeal is dismissed this 19th day, May 2009, see FED. R. APP. P. 42(b).

Clerk of the United States Court
of Appeals for the Fifth Circuit

By: Claudia N. Farrington
Claudia N. Farrington, Deputy Clerk

ENTERED AT THE DIRECTION OF THE COURT

Dockets.Justia.com

U. S. COURT OF APPEALS
FILED
MAY 1 8 2009
CHARLES R. FULBRUGE III
CLERK

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

NATHAN SMITH **Petitioner**	§ § §	
v.	§	**CAUSE NO. 09-20206**
THE ABANDONED VESSEL ***In Rem***	§ § §	

APPELLANT TEXAS HISTORICAL COMMISSION'S UNOPPOSED MOTION TO DISMISS APPEAL

NOW COMES the Texas Historical Commission ("Commission") filing its Unopposed Motion to Dismiss Appeal and would show the Court the following in support thereof:

Pursuant to FED. R. APP. P. 42, an Appellant may dismiss an appeal on terms agreed by the parties or fixed by the Court. Subsequent to the filing of the Notice of Appeal by the Commission, the District Court issued Findings of Fact and Conclusions of Law and a Final Judgment dismissing Mr. Smith's claims on April 27, 2009. The Commission filed a Motion for Extension of Time to file its brief on May 8, 2009, which this Court denied by Order dated May 14, 2009. Since the underlying case has been dismissed by the District Court and will be final unless appealed, the Commission will dismiss this appeal voluntarily. The other parties to this case do not object to this voluntary dismissal of this appeal and there are no costs to be allocated.

Accordingly, the Commission moves that the Court dismiss this appeal.

Respectfully submitted,

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ATTORNEYS FOR THE
TEXAS HISTORICAL COMMISSION

CERTIFICATE OF CONFERENCE

I certify that I have conferred with counsel for all parties in this case and they do not oppose this Motion.

JOE H. THRASH

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document has been delivered via facsimile and Certified U. S. Mail, Return Receipt Requested, to counsel of record, on May 15, 2009, as follows:

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